IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4931 OF 2000

Shivaji Maruti Mohite
Age : 71 years, Occ. Agriculture,
R/o. Tondoli, Tal.Khanapur,
Dist.Sangli. ..Petitioner

V/s.

1. Special Land Acquisition
officer no.5, Sangli,
having office at Mahsul Bhavan,
Miraj, Dist. Sangli.

2. District Re-settlement officer
Sangli.

3. Additional Commissioner
Pune Division, Pune.

4. State of Maharashtra ..Respondents

Mr.P.D.Patil i/by Mr.R.V.More for the petitioner.

Mr.R.M.Patne, Assistant Government Pleader for
Respondent Nos.1 to 4.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 2.5.2005.

Oral Judgment :- (Per : R.M.Lodha,J)

. Heard.

2. The whole trust of the petitioner in this Writ petition is that much before the notification was issued under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act 1986 making the

provisions of the said Act applicable to the Tembhu project which included village Tondoli, in respect of petitioner's holding comprising of 3 hectares 96 R, the oral partition took place between him and his son and that as per the said partition the petitioner's holding was 2 hectares and 43 R which is less than the slab of 8 acres (3 hectares 23 R) as per schedule appended to the Maharashtra Project Affected Persons Rehabilitation Act 1986 and therefore, petitioner's land admeasuring 40 R out of Gut no.355 could not have been acquired.

3. The contention of the petitioner is totally misconceived and bereft of substance. The averments made in the Writ petition itself suggest that the holding of the petitioner's land in the Khata is 3 hectares 96 R. The contention that the said Khata showed the petitioner's holding in excess cannot be accepted at this late stage. It is pertinent to note that the notification under Section 4 of the Land Acquisition Act 1894 was issued on 19.1.1999 and published on 18.2.1999. The petitioner submitted his objections to the proposed acquisition under Section 5-A of the Land Acquisition Act. His objection was that there are two Shivaji Mohite in the village Tondoli and the land of other Shivaji Mohite was clubbed with his holding. In the objection under Section 5-A there is not even

whisper about the partition of the holding between the petitioner and his son. The plea of the petitioner in the Writ petition that the oral partition took place between the petitioner and his son in the year 1994 is after thought and cannot be accepted.

4. Besides that it appears that the acquisition proceedings culminated in the award on 10.8.1989. The possession was taken over from the petitioner on 13.3.1999 and handed over to the acquiring body. There is no merit in the Writ petition and it is dismissed with no order as to costs.

(R.M.LODHA,J)

(R.S.MOHITE,J)